

Notice of Allowability

Applicati n No.

10/017,372

Examiner

Christopher Nichols, Ph.D.

Applicant(s)

WOLFRAM ET AL.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3 November 2003.
2. ☒ The allowed claim(s) is/are 1-9,11,18,19,28,29,31-37, and 58-61.
3. ☒ The drawings filed on 17 September 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 5 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

DETAILED ACTION

Status of Application, Amendments, and/or Claims

1. The Amendment/Response filed 17 September 2003 has been received and entered in full. Claims 1, 4, 6, 9, 11, 28, 29, 30, 31, 33, and 49 have been amended. Claims 12-17, 20, 21, 23-27, 38-48, and 53-56 have been cancelled. Claims 57 and 58 have been added.
2. The Amendment/Response filed 22 September 2003 has been received and entered in full. Claims 1, 4, 6, 9, 11, 28-31, 33, and 49 have been amended. Claims 12-17, 20, 21, 23-27, 38-48, and 53-56 have been cancelled. Claims 57 and 58 have been added.
3. The Amendment/Response filed 3 November 2003 has been received and entered in full. Claims 1, 2, 4, 6, 9, 11, 18, 31-35, and 58 have been amended. Claims 10, 12-17, 20-27, 30, and 38-57 have been cancelled. Claims 59-61 have been added.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Withdrawn Objections And/Or Rejections

5. The Objection to the Drawings as set forth at pp. 3 ¶3 in the previous Office Action (17 June 2003) are *withdrawn* in view of Applicant's submission of corrected drawings (17 September 2003).
6. The Objection to the Specification as set forth at pp. 3 ¶4 in the previous Office Action (17 June 2003) are *withdrawn* in view of Applicant's amendment (17 September 2003).

7. The Objection to the Claims **1-37, 49-53, and 55** as set forth at pp. 3 ¶5 in the previous Office Action (17 June 2003) are *withdrawn* in view of Applicant's amendments and cancellation of claims (17 September 2003).
8. The Rejection of Claims **10, 11, 14-17, 20-24, 31, 33, 49-53, and 55** under 35 U.S.C. §112 ¶1 as set forth at pp. 3-9 ¶6-16 in the previous Office Action (17 June 2003) are *withdrawn* in view of Applicant's amendments and cancellation of claims (17 September 2003).
9. All outstanding Objections and Rejections of Claims **12-17, 20, 21, 23-27, 38-48, and 53-56** are *moot* in view of Applicant's cancellation of said claims (17 September 2003).
10. The Rejection of Claim **1** under 35 U.S.C. §102(b) as set forth at pp. 9 ¶17 in the previous Office Action (17 June 2003) is *withdrawn* in view of Applicant's amendments (17 September 2003).
11. All previously made Rejections and Objections are *withdrawn* in view of Interview 27 October 2003 and the claim amendments agreed upon were entered by Applicant in Amendment filed 3 November 2003.

Allowable Subject Matter

12. Claims 1-9, 11, 18, 19, 28, 29, 31-37, and 58-61 are hereby allowed.

Summary

13. Claims 1-9, 11, 18, 19, 28, 29, 31-37, and 58-61 are hereby allowed.
14. The Examiner acknowledges that acceptance of the Amendment entered by Application on 3 November 2003 does not mitigate in any way, shape, or form, Applicant's right to pursue

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additional subject matter in continuation, continuation-in-part, and/or divisional applications pursuant to 35 U.S.C. §120 and §121.

15. The following articles, patents, and published patent applications were found by the Examiner during the art search while not relied upon are considered pertinent to the instant application:

- a. US 5800811 (1 September 1998) Hall *et al.*
- b. US 5221620 (22 June 1993) Purchio *et al.*
- c. WO 01/81404 (1 November 2001) Strober *et al.*

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher James Nichols, Ph.D.** whose telephone number is 703-305-3955. The examiner can normally be reached on Monday through Friday, 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Gary Kunz, Ph.D.** can be reached on 703-308-4623. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications. The fax phone numbers for the customer service center is 703-872-9305.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

CJN
November 6, 2003

Elizabeth C Kemmerer

ELIZABETH KEMMERER
PRIMARY EXAMINER